

EXHIBIT C

Texas Register

TITLE 22	EXAMINING BOARDS
PART 9	TEXAS MEDICAL BOARD
CHAPTER 187	PROCEDURAL RULES
SUBCHAPTER F	TEMPORARY SUSPENSION AND RESTRICTION PROCEEDINGS
RULE §187.57	Charge of the Disciplinary Panel
ISSUE	04/03/2020
ACTION	Emergency

Preamble

Texas Admin Code
Rule

(a)The disciplinary panel shall determine from the evidence or information presented to it whether a person's continuation in practice constitutes a continuing threat to the public welfare.

(b)If the disciplinary panel determines that a person's continuation in practice would constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend or restrict the license of that person.

(c)In accordance with the Act, §151.002(a)(2), "continuing threat to the public welfare," means a real danger to the health of a physician's patients or the public caused through the physician's lack of competence, impaired status, performance of a non-urgent elective surgery or procedure, or failure to care adequately for the physician's patients. A real danger exists if patients have an exposure to or risk of injury that is not merely abstract, hypothetical or remote and is based on actual actions or inactions of the physician. Information that the physician has committed similar actions or inactions in the past shall be considered by the disciplinary panel.

(1)For purposes of this rule all licensed health care professionals shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician.

(2)Provided, however, that this prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster.

(d)The disciplinary panel may also temporarily restrict or suspend a license of a person upon proof that a person has been arrested for an offense under:

- (1)Section 22.011(a)(2), Penal Code (sexual assault of a child);
- (2)Section 22.021(a)(1)(B), Penal Code (aggravated sexual assault of a child);
- (3)Section 21.02, Penal Code (continuous sexual abuse of a young child or children); or
- (4)Section 21.11, Penal Code (indecent with a child).

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 23, 2020

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Texas Medical Board

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For further information, please call: (512) 305-7016

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